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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 AGRIMAX INTERNATIONAL, LLC,

11 Plaintiff,

12 v.

13 HSBC BANK USA, N.A.,

14 Defendant.

CASE NO. C13-0976JLR

ORDER GRANTING
UNOPPOSED MOTION FOR
SUMMARY JUDGMENT

15 Before the court is HSBC Bank USA, N.A.’s (“HSBC”) unopposed motion for
16 summary judgment. (Mot. (Dkt. # 11).) HSBC argues that all of Plaintiff Agrimax
17 International, LLC’s (“Agrimax”) claims are time-barred and suffer from numerous other
18 fatal flaws. (*See id.*) Agrimax has filed no response to HSBC’s motion. (*See Dkt.*)
19 Under Western District of Washington Local Rule CR 7(b)(2), “[i]f a party fails to file
20 papers in opposition to a motion, such failure may be considered by the court as an
21 admission that the motion has merit.” Local Rules W.D. Wash. CR 7(b)(2). However,
22 this rule has limits in the summary judgment context. The Ninth Circuit has held that “a

1 non-moving party's failure to comply with local rules does not excuse the moving party's
2 affirmative duty under Rule 56 to demonstrate its entitlement to judgment as a matter of
3 law." *See Martinez v. Stanford*, 323 F.3d 1178, 1182 (9th Cir. 2003) (citing Fed. R. Civ.
4 P. 56). Accordingly, notwithstanding Local Rule CR 7(b)(2), HSBC must demonstrate
5 that the relief it seeks is warranted.

6 HSBC has done so. HSBC has presented a clear, cogent legal argument for why
7 Agrimax's claims are time-barred, as well as a substantial amount of summary judgment
8 evidence supporting its factual claims. In short, HSBC has met its burden of
9 demonstrating that there are no genuine issues of material fact and that it is entitled to
10 judgment as a matter of law.

11 Agrimax's claims are related to funds transfers. Agrimax had a business bank
12 account with HSBC that Agrimax used to make payments related to its agricultural
13 brokerage business. (Compl. ¶¶ 3.1-3.2.) In late 2010 and early 2011, an Agrimax
14 employee named Marie Zou used the HSBC account to transfer \$1,319,705.00 to a
15 company referred to as "the Scramble Group." (Compl. ¶¶ 3.4-3.5.) Evidently, Ms. Zou
16 was supposed to transfer the funds to another company instead. (*See id.*) On April 25,
17 2013, Agrimax filed this complaint alleging breach of contract and negligence in
18 connection with the transfers, despite the fact that its own employee, Ms. Zou, appears to
19 have made the transfers. (*See generally* Compl.)

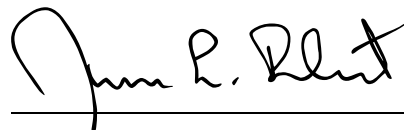
20 HSBC points out that these claims are time-barred for two different reasons. First,
21 the banking contract between HSBC and Agrimax contains a one-year limitation on
22 claims made against HSBC:

1 You agree to make any claim or bring any legal action relating to the
 2 Bank's handling of your account, in writing, within one (1) year of the date
 3 the problem occurred, unless these Rules or applicable law or regulation
 4 require earlier action by you.

5 (Wang Decl. (Dkt. # 13-8) Ex. G at 34.) Second, the transactions at issue are governed
 6 by the Uniform Commercial Code,¹ which provides the exclusive remedy for Agrimax's
 7 alleged harms and has a one-year limitations period on claims of this nature. (See Mot. at
 8 12-15 (detailing the relevant law).) More than a year passed between the final relevant
 9 transfer, in June 2011, and the first event that could be even remotely construed as an
 10 assertion of claims against HSBC, in December 2012. (Nicholson Decl. (Dkt. # 13) Exs.
 11 1, 6; Wang Decl. ¶ 7, Ex. F.) As such, all of Agrimax's claims are time-barred.

12 Agrimax does not oppose this motion on a factual basis, nor does it dispute the
 13 governing law. The court has examined both and has determined that HSBC is indeed
 14 entitled to the relief it requests. Accordingly, the court finds that HSBC has met its
 15 summary judgment burden and GRANTS HSBC's motion for summary judgment (Dkt.
 16 # 11).

17 Dated this 25th day of April, 2014.

18 

19 JAMES L. ROBART
 20 United States District Judge

21 ¹ The New York version of the Uniform Commercial Code appears to apply, rather than
 22 Washington's, but it does not matter because the two are identical with respect to the relevant
 provisions. Compare, e.g., RCW 62A.4A-102, 505 with NY CLS UCC 4-A-102, 505; see also
 RCW 62A.4A-507, NY CLS UCC 4-A-507 (choice of law provisions).